

46 Am. Jur. 2d Judges § 129

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Judges

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IX. Disqualification to Act in Particular Case

B. Grounds for Disqualification

4. Bias or Prejudice as Grounds for Disqualification

a. Bias or Prejudice as Grounds for Disqualification, in General

§ 129. Opinions of judge as grounds for disqualification

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  49(2)

An expression of opinion as to a matter to be decided does not disqualify a judge or indicate want of competency to hear fairly and decide impartially all issues.¹ Mere opinion which can be removed by evidence is insufficient to disqualify a judge.² An opinion, developed from information acquired in the course of presiding over a case, generally does not disqualify a judge from rendering a decision in that matter.³ Moreover, a judge's expression of opinion derived from his or her participation in prior proceedings in a pending cause is not sufficient in itself to demonstrate disqualifying bias or prejudice,⁴ nor is a judge prevented from presiding over a case because the judge has given his or her opinion on any question in controversy and on a pending action in the course of previous proceedings.⁵

Caution:

Opinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute bias for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make a fair judgment impossible.⁶

Observation:

An erroneous opinion as to the merits of the case or the law relating to the proceedings is not evidence of judicial bias.⁷

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Footnotes

- 1 [Com. v. Coleman](#), 390 Mass. 797, 461 N.E.2d 157 (1984).
- 2 [Nelson v. Dodge](#), 76 R.I. 1, 68 A.2d 51, 14 A.L.R.2d 638 (1949).
- 3 [U.S. v. Gamboa](#), 439 F.3d 796, 69 Fed. R. Evid. Serv. 675 (8th Cir. 2006); [Adoption of Seth](#), 29 Mass. App. Ct. 343, 560 N.E.2d 708 (1990); [Hayes-Albion v. Kuberski](#), 421 Mich. 170, 364 N.W.2d 609 (1984).
- 4 [People v. Boehmer](#), 767 P.2d 787 (Colo. App. 1988).
- As to prior contact with a party as constituting bias or prejudice, see § 133.
- 5 [Hundred East Credit Corp. v. Eric Shuster Corp.](#), 212 N.J. Super. 350, 515 A.2d 246 (App. Div. 1986).
- 6 [Sibley v. St. Albans School](#), 134 A.3d 789, 330 Ed. Law Rep. 193 (D.C. 2016); [O'Neill v. O'Neill](#), 2016 SD 15, 876 N.W.2d 486 (S.D. 2016).
- 7 [Rath v. Rath](#), 2016 ND 105, 879 N.W.2d 735 (N.D. 2016).

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